like shares passing into trustee in bankruptcy's hands was allowed—the trustee and the claimant being treated as tenants in common of the whole. The decision reversed the lower court which denied recovery because the stock certificates could not be identified as claimant's property. The distinction between the latter and the principal case is purely mathematical. In *Gorman* v. *Littlefield* the number of shares passing to the trustee exceeded the number subject to demand by the customers; in the principal case the sum total of shares passing to the trustee is less than the number subject to demand. The court seems to have applied the rule with equal precision in both cases.

BANKS AND BANKING—NEGLIGENCE BY DEPOSITOR AFTER DISCOVERING FORGERY OF CHECK.—Plaintiff depositor drew a check on defendant bank, which honored it when presented for payment. It developed that the payee's indorsement was forged. After the check had been cashed, plaintiff discovered the forgery, but did not inform the bank until 43 days after obtaining the information. *Held,* plaintiff nonsuited because of such negligence. *Connors* v. *Old Forge Discount Bank* (Pa. 1914) 91 Atl. 210.

The accepted rule is that payment by a bank upon a forged indorsement, of a check payable to order, is not binding upon the drawer. *Welsh* v. *German Am. Bank,* 73 N. Y. 424. But when a depositor discovers that a bank has paid and charged to his account either a check bearing his forged signature as drawer, or his check on the forged indorsement of the payee, it is his duty to notify the bank promptly of the forgery. If he fails to notify promptly, he cannot recover from the bank, irrespective of whether the latter could have protected itself or not. *McNeely* v. *Bank,* 221 Pa. 588, 70 Atl. 891. In the latter case no notice was given for nearly three months. It was decided on the theory that by such negligence the depositor withheld from the bank a substantial *right* of proceeding promptly against the forger. The decision is important in holding that the bank need not give evidence showing it could have protected itself, if notified. To same effect, *Leather Mnf's Bank* v. *Morgan,* 117 U. S. 96, 6 Sup. Ct. 657; *Voorhis* v. *Olmstead,* 66 N. Y. 113, 118; *Fall River Bank* v. *Buffinton,* 97 Mass. 498. In *United States* v. *Nat. Exch. Bank,* 45 Fed. 163 the court went even further and held that neglect of the drawer, for over one month after discovering the check had been paid on a forged indorsement, to notify bank that it would be held responsible, released the bank from liability, even though it had notice of the forgery as soon as the drawer had. The instant case must be distinguished from cases in which the depositor is negligent in *discovering* the forgery (as by not looking at returned checks, for instance), and from cases in which the depositor has notified the bank of the forgery but has not tendered back the check for a considerable time. *Cook* v. *U. S.,* 91 U. S. 402; *Ellis* v. *Trust Co.,* 4 Ohio St. 662; *Schroeder* v. *Harvey,* 75 Ill. 639; *Brixen* v. *Nat. Bank,* 5 Utah 504, 18 Pac. 43. This distinction explains in part the doctrine of a few cases holding that the bank must show actual damage resulting to it because of no notification. A few other cases are flatly contrary to the instant case on this

point of actual damage. *Harlem Ass'n* v. *Mercantile Trust Co.,* 31 N. Y. Supp. 790; *U. S.* v. *Bank,* 6 Fed. 853; *Murphy* v. *Bank,* 191 Mass. 159, 77 N. E. 693. DANIEL, NEG. INST. (5th Ed.) Vol. 2, § 1372, says the demand for restitution ought to be made reasonably after the discovery, and that the court will at times look past the mere extent of time to consider other circumstances. *Third Nat. Bank* v. *Allen,* 59 Mo. 310; *First Nat. Bank* v. *Bank,* 152 Ill. 296.

BILLS AND NOTES—GIFTS INTER VIVOS AND MORTIS CAUSA—DELIVERY.—L. Guipon, depositor in a bank, drew a check and mailed it to his betrothed, in contemplation of his suicide. The letter expressed this intention. Guipon killed himself before the letter and check reached his betrothed. The check was for $7212.00, being $0.88 less than Guipon had to his credit in the bank. The bank refused payment on the ground that the death of the donor revoked the order. *Held,* that the gift was not valid either inter vivos or mortis causa, despite fact of a valid delivery. *Bainbridge* v. *Hoes,* (1914) 149 N. Y. Supp. 20.

For a valid gift inter vivos the dominion of the donee over the subject must be complete. The NEGOTIABLE INSTRUMENTS LAW (Consol. laws, c. 38, § 325) says a check does not operate as an assignment of any part of the funds. So delivery of a check not certified by the bank on which drawn does not constitute a valid gift inter vivos. *Second Nat. Bank* v. *Williams,* 13 Mich. 291; *Florence Mining Co.* v. *Brown,* 124 U. S. 385, 8 Sup. Ct. 531; *Bullard* v. *Randall,* 1 Gray 605; POMEROY, EQUITY, § 1148. These was a valid delivery in the instant case, even though Guipon was dead before the check reached the donee, because the delivery to the Post Office is considered a delivery to the agent of the payee of the check. *Kennedy* v. *Kennedy,* 66 N. Y. Supp. 225; *Com.* v. *Wood,* 142 Mass. 459, 8 N. E. 432; *U. S.* v. *Nutt,* Fed. Cases No. 15904. Suicide is not made a crime in New York. *Meachem* v. *Mutual Ass'n.* 120 N. Y. 237. So a gift in anticipation of suicide is not *void* as being against public policy. But the theory of a gift mortis causa is that the contemplated death, the death and its contemplated means, all become an essential part of the transaction. *Irish* v. *Nutting,* 47 Barb. 383, 386. The law of New York terms suicide a "grave public wrong," and the court therefore considers the gift *invalid* because the *means* were invalid. The binding authority is *Re Smither,* 30 Hun. 632. It rests in part on *Harris* v. *Clark,* 3 Comst. 93, which holds that a written order upon a third person, made by the donor, is not the subject of a valid gift, either inter vivos or mortis causa.

CARRIERS.—CARMACK AMENDMENT.—Plaintiff was the consignee of several carload lots of fruit shipments from Ogden, Utah, to Omaha, Neb., over the lines of the defendant. Before their arrival and delivery to the plaintiff at Omaha, plaintiff contracted orally with the defendant through its agents, to divert several of these shipments to various points in Minnesota, South Dakota, and Iowa at through rates, and surrendered the original bills of lading to the defendant's proper agents, no new bills of lading to cover the